



Reports on the 45th session of the UN Human Rights Council

Interactive dialogue with the Special Rapporteur on truth, justice, reparation, and guarantee of non-recurrence – 17 September 2020

Mr Fabián Salvioli - Special Rapporteur on truth, justice, reparation and guarantees of non-recurrence:

Summary of the report: [A/HRC/45/45](#)

- Activities undertaken by the Special Rapporteur (SR) between July 2019 and June 2020.
- Objectives and regulatory framework of **memorialization** processes.
- Memorialization in **times of conflict** (Temporality, Limits of transitional justice, Managing victims' expectations).
- Memory work in **situations of transition**: the challenge of ownership, good practices, recommendations of truth-seeking mechanisms, access to **archives**, Role of the UN.
- **Weaponization of memory** through **social networks**: balance between the right to information and the prohibition of incitement to hatred, criminal responsibility of ideologues and propagandists, responsibility of the media and need to adapt laws, **fake news**, education.

Without **memory of the past**, there cannot be **fulfilment of human rights**. **Memorialization** is a vital tool to move out the spiral of conflict and hatred. The need to carry out memory work is an obligation and not an option for states where there have been human rights violations in the past.

Memorialization is also linked to the ability to **obtain access to archives**. The most obvious risk is that some warring groups might deliberately seek to destroy documents that may be used as evidence of serious violations of human rights and international humanitarian law. **Archives must be made public** and available to all. The United Nations can play a very important role in memory work. UN agencies and organs have built up **valuable archives** in the countries where they have operated.

The Special Rapporteur is deeply concerned about the possible **dangerous manipulation of information** and memory to the detriment of human rights, the **stigmatization** of certain communities and hate speech that encourages the commission of violent acts and even **mass violence**.

Visit of the Special Rapporteur to El Salvador:

Progress have been made in the **implementation of transitional justice** measures to address the serious human rights and international humanitarian law violations committed during the armed conflict. **Setbacks and delays** are cause for great concern, such as the **impunity mechanism** that lasted for more than two decades after the adoption of the Amnesty Act and the **slow pace of criminal investigations** after the Act was declared unconstitutional.

Visit of the Special Rapporteur to Gambia:

The Special Rapporteur noted the **domestic process initiated to address past abuses** and prevent their recurrence and the establishment of the Truth, Reconciliation and Reparations Commission. **Shortcomings in several areas**, including criminal prosecutions, memorialization, institutional reforms and reparations remain concerning issues in Gambia.

Comments from El Salvador (country concerned):

It is important to note that the visit of the SR had been carried out in a **context of transition** of government. The report of the SR recognizes the open and fruitful relationship that the State had established with the UN mechanisms. This year, the President of El Salvador had made use of constitutional powers to veto the legislative decree that contained the "*Special Law of Transitional Justice, Reparation and National Reconciliation*", which did not address the **request of victims** and their families and contained other loopholes.

Comments from Gambia (country concerned):

Recognizing that presentation of this report is being done at a **time of pandemic**, the implementation of the recommendations from the SR have been delayed by the effects of the pandemic. However, many **progresses** have been made since the SR visit in Gambia in 2019. The government improved the legal framework to align its legislative architecture with international standards and embarked in a national justice process to **address past human rights violations** and **prevent impunity**.

Comments from Sri Lanka (country concerned):

The report fails to adequately and positively portray the significant progress achieved in respect of truth, justice, reparations and guarantees of non-recurrence since the visit of the Special Rapporteur and hence is **not a reflection on the situation** currently prevalent in Sri Lanka.

Interactive Dialogue

The majority of speakers **commanded the Special Rapporteur** for his report. They emphasized the central aspect of **memorialization** in the process establishing justice, truth and reparation and agreed with the Special Rapporteur's **recommendations** issued in his report.

Delegations were concerned over the **weaponization of memory**, especially on **social media** and the toxic narratives including hate speech, negationist attitudes, stigmatization and hatred. **Disinformation** should be combatted through laws and mechanisms. In this regard, **education** was often mentioned as a powerful tool to **counter hate speech and disinformation**.

Archives are an important tool for memorization. States emphasized the need to **protect archives** and to make them **public and available** to all. Speakers agreed with the Special Rapporteur that the **United Nations** can play an important role in sharing its archives.

Regarding the process of memorization and dealing with the past, it was shared by all that **states should play a central role** in establishing truth and justice. **Victims must also be placed at the heart** of these reparation mechanisms and **testimonies** must constitute a central source of information.

During the interactive dialogue, several states highlighted their **domestic efforts to establish commissions** and mechanisms to deal with the past.

Delegations that took the floor during the Interactive Dialogue (40 delegations):

Human Rights Council members: Burkina Faso (o/b of African group), Peru (o/b of Latin American group), Armenia, Indonesia, Libya, Togo, Chile, Namibia, Angola, Republic of Korea, Venezuela, Nepal, Sudan, Japan.
Observer states: Estonia (on behalf of Nordic and Baltic countries), European Union, Switzerland (on behalf of group of countries), Liechtenstein, Israel, Belgium, Sierra Leone, Morocco, China, Paraguay, Botswana, Iran, Timor Leste, Croatia, Russian Federation, Ireland, United Kingdom, Egypt, Cambodia, France, Syria, Iraq.

While statements from states and delegations focused on general themes linked to the topic of dealing with the past, statements issued by NGOs were mainly linked to **specific countries and situations**.

- **Countries** mentioned: Iran, Sri Lanka, Mexico, El Salvador, Ukraine.
- **Situations:** LGBTI, human rights defenders, education, objection to the military service, racism.

Civil Society Organizations that took the floor during the Interactive Dialogue (3 NGOs):

International Movement Against All Forms of Discrimination and Racism (Joint Statement), Mexican Commission of Defence and Promotion of the Human Rights, International Lesbian & Gay Association (Joint Statement), International Commission of Jurists, Peace Brigades International, International Organization for the Right to Education and Freedom of Education (Joint Statement), International Fellowship of Reconciliation, Conscience and Peace Tax International, Public Organization "Public Advocacy".